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Hawk One Security, Inc., and United Government Security Officers of America International Union. Case 5–CA–30274

January 29, 2003

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN
AND SCHAUMBER

The General Counsel seeks summary judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by the Union on March 1, 2002, the General Counsel issued the complaint on June 28, 2002, against Hawk One Security, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On October 21, 2002, the General Counsel filed a Motion for Summary Judgment with the Board. On October 23, 2002, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated October 1, 2002, notified the Respondent that unless an answer was received by October 8, 2002, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent is engaged in the business of providing armed and unarmed security guard services to U.S.

Government agencies in the Washington, D.C. metropolitan area. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations described above, performed services valued in excess of \$50,000 in States other than the District of Columbia, and performed services valued in excess of \$50,000 in the District of Columbia. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Tyron Thompson held the position of the Respondent's president and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (the unit), constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time special police officers and security guards employed by the Respondent at its various Washington, D.C. facilities pursuant to its contracts with the District of Columbia Government, including the facilities operated by the Washington Area Sanitation Authority; but excluding all other employees, corporals, sergeants, captains, majors, dispatchers, office clericals, and supervisors as defined in the Act.

At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit and has been recognized as the representative by the Respondent. This recognition has been embodied in a collective-bargaining agreement effective by its terms from October 21, 1999, through September 30, 2002.

Since about January 15, 2002, the Union, by certified mail, requested that the Respondent provide it with the names, current addresses, and dates of hire of all employees in the unit described above.

The information requested by the Union is necessary for, and relevant to, the Union's role as the exclusive collective-bargaining representative of the unit.

At all times material, the Respondent, by Tyron Thompson, has failed and refused to furnish the Union with the information requested by it, as described above.¹

¹ Par. 7(c) of the complaint erroneously alleges that the Respondent failed to furnish the "Employer" with the requested information. We have corrected this inadvertent error.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed and refused to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees, we shall order the Respondent to provide the information requested by the Union.

ORDER

The National Labor Relations Board orders that the Respondent, Hawk One Security, Inc., Washington, D.C., its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to provide necessary and relevant information to the Union, on request.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Union the information it requested by letter dated January 15, 2002.

(b) Within 14 days after service by the Region, post at its facility in the Washington, D.C. area, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the

Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 15, 2002.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 29, 2003

Robert J. Battista, Chairman

Wilma B. Liebman, Member

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to provide necessary and relevant information to the United Government Security Officers of America International Union, on request.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish to the Union the information it requested by letter dated January 15, 2002.

HAWK ONE SECURITY, INC.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals enforcing an Order of the National Labor Relations Board."